UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/24
7 February 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Item 10 of the provisional agenda

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Human rights and forensic science

Report of the Secretary-General

GE.94-10654 (E)

CONTENTS

	Paragraphs	Page
Introduction	1 - 3	3
I. CONSULTATIONS CONDUCTED BY THE SECRETARY-GENERAL	4 - 9	4
A. Comments received from Governments	4	4
B. Comments received from non-governmental organizations	5	4
C. Fact-finding situations as reported by mechanisms of the Commission and other relevant United Nations bodies in connection with medico-legal investigations relating to alleged human rights violations	6 - 9	5
II. ESTABLISHMENT OF A LIST OF FORENSIC EXPERTS AND EXPERTS IN RELATED FIELDS	10 - 11	6
A. Experts and institutions recommended by Governments	10	6
B. Experts and institutions recommended by non-governmental organizations	11	11
III. CONSIDERATIONS REGARDING FUTURE ACTIVITIES	12 - 16	11

Introduction

1. At its forty-eighth session, the Commission on Human Rights adopted resolution 1992/24 in response to the perceived need to create, under United Nations auspices, a standing team of forensic experts and experts in other related disciplines to assist in the identification of probable victims of human rights violations or in the training of local teams for the same purpose. In compliance with resolution 1992/24, the Secretary-General submitted a report (E/CN.4/1993/20) to the forty-ninth session of the Commission on Human Rights in which he noted the increasing references by experts of the Commission on Human Rights to the need for forensic expertise in the determination of alleged violations brought to their attention and the prevailing difficulties in obtaining such assistance.

2. In an effort to detail the valuable assistance that forensic sciences might contribute to the investigation of alleged human rights violations, the Secretary-General referred to the activities of forensic scientists in the conduct of medico-legal investigations (E/CN.4/1993/20, paras. 7-14), in forensic training (paras. 15-17), and in the development of international medico-legal standards for investigations (paras. 18-21). The Secretary-General also reported on the consultations held by the Working Group on Enforced or Involuntary Disappearances with organizations in the field of forensic science and human rights with a view to creating a standing team of forensic experts and experts in other relevant disciplines (paras. 22-27). The Secretary-General further reported on the relevant activities of other United Nations bodies (paras. 28-30), citing in particular the activities of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Commission of Experts established pursuant to Security Council resolution 780 (1992), both in relation to alleged violations in the territory of the former Yugoslavia.

3. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/33 in which the Commission, welcoming the report of the Secretary-General, requested him "to consult with Governments, relevant United Nations bodies, professional organizations of forensic experts, the organizations mentioned in his report and other interested institutions with a view to identifying individual experts who might be asked to join forensic teams or to provide advice or assistance to thematic or country mechanisms, advisory services and technical assistance programmes". The Commission also requested the Secretary-General to establish "a list of forensic experts and experts in related fields who could be requested to help international mechanisms in the field of human rights, Governments and the Centre for Human Rights in providing technical and advisory services, advice in regard to the monitoring of human rights violations and training of local teams and/or assistance in the reunification of families of the disappeared". The Secretary-General was further requested to make the aforementioned list available to the special rapporteurs and experts of United Nations human rights mechanisms so that they might draw upon the list in carrying out their mandates. Finally, the Secretary-General was requested to report to the Commission at its fiftieth session on progress made in this area and to make such recommendations as he considered appropriate.

I. CONSULTATIONS CONDUCTED BY THE SECRETARY-GENERAL

A. Comments received from Governments

4. In addition to the responses of interested Governments in recommending experts to be included in the list to be established by the Secretary-General pursuant to paragraph 3 of Commission resolution 1993/33, the Governments of Denmark, France, and the Philippines contributed the following remarks:

(a) In advancing the name of an individual expert to join a forensic team in the investigation of alleged human rights violations, the Permanent Mission of Denmark to the United Nations Office at Geneva also communicated the suggestion that the Danish Centre for Human Rights be utilized in an advisory capacity in the consideration or event of such investigations;

(b) In advancing the names of individual experts to join forensic teams in the investigation of alleged human rights violations, the National Consultative Commission on Human Rights of the French Republic also transmitted a technical note indicating that, in the conduct of an exhumation, it would be indispensable to have access to autonomous and mobile radiological equipment;

(c) Prior to advancing the names of individual experts to join forensic teams in the investigation of alleged human rights violations, the Philippine Government commented that the application of forensic expertise in the investigation and hearing of complaints by the Philippine Commission on Human Rights had assisted in establishing and identifying the nature and cause of injury or death in 124 cases of human rights violations in a period of three years. However, while the utility of such application was clearly established by Philippine experience, the Philippine Government also noted the need to train more teams so as to make available sufficient expertise.

B. Comments received from non-governmental organizations

5. In cooperation with the Working Group on Enforced or Involuntary Disappearances, the Secretary-General maintained contact with a variety of non-governmental organizations expert either in forensic science and related fields or in human rights. In terms of specific responses to the report of the Secretary-General contained in document E/CN.4/1993/20, the American Association for the Advancement of Science (AAAS), the Equipo de Antropología Forense de Guatemala (EAFG) and Mahidol University (Bangkok) contributed the following remarks:

(a) In applauding the report of the Secretary-General, AAAS stated that it found the suggested scheme to be workable and that, after some initial experience with its implementation, any need to fine tune the scheme would become apparent. However, the AAAS underlined the evident need to support the scheme with sufficient operational funds;

(b) Founded in July 1992, EAFG noted that its own experience, although limited, indicated a significant need to ensure the personal security of those involved in forensic activities. In addition, and as explained in a copy of a

biannual report attached to its communication, training in specialized scientific fields (such as in relation to ballistics) and the maintenance of peace are necessary conditions for successful applications of forensic expertise in the investigation of human rights violations;

(c) Prof. Eungprabhanth of Mahidal University commented that the Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions offered a good basis to improve medico-legal services in Thailand. He also indicated that expertise in comparative law and medico-legal services could be of potential benefit to Thailand in reviewing domestic law concerning forensic services and, in particular, post mortem inquest law.

C. Fact-finding situations as reported by mechanisms of the Commission and other relevant United Nations bodies in connection with medico-legal investigations relating to alleged human rights violations

6. In his previous report to the Commission on Human Rights, the Secretary-General made reference to the utility of forensic sciences as emphasized by the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the situation of human rights in occupied Kuwait and the Special Rapporteur on the situation of human rights in Iraq (E/CN.4/1993/20, para. 2). Further specific reference was made to the recommendation of the Special Rapporteur on extrajudicial, summary or arbitrary executions (paras. 28 and 29).

7. In the last year, the Special Rapporteur on extrajudicial, summary or arbitrary executions referred to the need for forensic expertise in the context of his investigations into executions in Peru (E/CN.4/1994/7/Add.2, para. 105) and reiterated his call for the establishment of a United Nations standing team of experts:

> "The Special Rapporteur considers the implementation of Commission resolutions 1993/33 and 1992/24 to be a matter of high priority. In this regard, he would like to stress the need for expertise in forensic pathology, anthropology and archaeology in order to conduct excavations of mass graves and examine human remains found therein. In this context, efforts to establish a standing team of internationally recognized experts in this field who could provide advice and assistance to national investigating organs should be continued." (E/CN.4/1994/7, para. 698)

8. For its part, the Working Group on Enforced or Involuntary Disappearances has again drawn attention to the relevance of forensic expertise in relation to the exhumation of graves and the identification of possible victims of human rights violations, especially in cases of disappearance (E/CN.4/1994/26, para. 537). The Working Group has maintained its contacts with relevant professional organizations and has welcomed the establishment of a list of forensic experts and experts in related fields for possible use by Governments and international human rights mechanisms (para. 538).

9. The need for forensic expertise and expertise in related fields has also become apparent in the work of the Special Rapporteur on the situation of human rights in the former Yugoslavia especially in the context of exhumation

of mass graves and the investigation of allegations of rape and other torture, both of which have been highlighted by the Special Rapporteur (E/CN.4/1993/50, annexes I and II). The Commission of Experts established pursuant to Security Council resolution 780 (1992) has also singled out the importance of forensic expertise in relation to alleged violations of international humanitarian law (S/25274, para. 32) and has made use of such expertise in relation to the exhumation of mass graves (S/25274, paras. 61-62; S/26545, paras. 57-62 and Press Release SC/311 of 15 December 1993).

II. ESTABLISHMENT OF A LIST OF FORENSIC EXPERTS AND EXPERTS IN RELATED FIELDS

A. Experts and institutions recommended by Governments

10. In response to requests by the Secretary-General, the following names of experts or specialized organizations were put forth by Governments; in their replies, Governments did not distinguish whether or not the persons or institutions recommended were only to contribute their expertise in joining forensic teams or in providing advice and other assistance. Several names were put forth accompanied by some biographical data which is available for consultation with the secretariat.

Austria

Prof. Dr. Eduard P. Leinzinger

Bangladesh

Prof. Md. Mojibur Rahman
Dr. Anowar Ara Begum

Bulgaria

Dr. Nikolay Slavchev Nenkov
Dr. Stoyan Velikov Stoev

Cape Verde

Lic. Amândio de Apresentaçáo de Carvalho Tavares

Denmark

Dr. Karin Helweg-Larsen
The Danish Center for Human Rights

Finland

Prof. Jorma Hirvonen
Prof. Pekka Karhunen
Dr. Kari Karkola
Prof. Kauno Laiho
Dr. Arja Partanen-Talsta
Prof. Antti Penttilä

Finland (continued)

Prof. Pekka Saukko
Dr. Aulikki Wallin

France

Prof. Marcel Colin
Prof. Marc Elchardus
Institut Alexandre Lacassagne de Lyon
Institut de médecine légale de Lyon

Germany

Prof. Dr. med. Hans-Jürgen Bratzke
Prof. Dr. Wolfgang Eisenmenger
Prof. Dr. Klaus Püschel
Prof. Dr. med. Christian Rittner
Dr. Markus Rothschild
Prof. Dr. med. Hans Dieter Tröger
Prof. Dr. med. Jochen Wilski

Guatemala

Dr. Estuardo Roberto Solorzano Elias
Dr. Carlos Vinicio Gomez Ruiz

Hungary

Prof. Dr. Péter Sótonyi

Iraq

Dr. Dhari Khalil Mahmoud Al-Azawee

Jordan

Dr. Qais Jamil al-Qasus
Dr. Mu'min al-Hudaidi
Dr. Hani Jahshan
Dr. Mansur al-Mu'aytah
Dr. Janit Mirza

Kuwait

Lt. Col. Dr. Badr Khalid al-Khalifa
Lt. Col. Fahd Ibrahim al-Dowsari
M.E. Raja'i Muhammad al-Musalmani

Libyan Arab Jamahiriya

Dr. Fauzi Abdul Salam Ben Omren

Malaysia

Prof. Madya Rasaratnam Sarvesvaran
Dr. Mohd. Shaharom bin Abdul Wahid
Dr. Abdul Halim bin Mansar
Dr. Subramaniam Sithamparapillai
Dr. Abdul Rahman bin Yussof
Dr. Shahidah bin Md. Noor
Dr. Buphinder Singh
Dr. Mohd. Shah bin Mahmud

Mexico

Mr. Sergio Herón Cirnes Zúñiga
Mr. José Alfredo Carrillo Garcia
Dr. Epifanio Salazar Araiza
Ms. Juana Margarita Franco Luna

Morocco

Prof. Dr. Moulay Ahmed Iraqi

Nepal

(a) Royal Nepal Academy of Science and Technology

Dr. Sevak Ram Bhandari
Ms. Minu Shobha Tuladhar
Mr. Jivan Rijal
Mr. Rajendra Prasad Dawadi

(b) Police Headquarters, Naxal, Kathmandu

(i) Ballistics

Add. Insp. Gen. Achyut Krishna Kharel
Dep. Insp. Gen. Dhal Man Lama

(ii) Fingerprints

Sen. Super. Ram Bahadur Thapa
Dep. Super. Dambar Bahadur Limbu
Dep. Super. Hari Bahadur Thapa
Dep. Super. Man Bahadur Rawal

(iii) Forensic chemistry including toxicology

Super. Jai Singh Thapa
Super. Ramesh Kumar Shrestha

Nepal (continued)

(iv) Analysis of drugs of abuse

Super. Jai Singh Thapa

(v) Questioned documents

Super. Mohan Bahadur Silwal

(vi) Forensic biology and serology

Dep. Super. Prem Bahadur Gurung

Norway

Prof. dr. med. Johan Chr. Giertsen
Prof. dr. med. Bjornar Olaisen

Philippines

Dr. Rogalado R. Auro
Dr. Renante A. Basas
Dr. Eleanor P. Carlos
Dr. Jose Rey T. Cruel

Romania

Prof. Dr. Vladimir Belis
Dr. Marius Gangal
Dr. Viorel Panaitescu

Singapore

Dr. Yee Wing Chan
Prof. Tzee Cheng Chao
Dr. Hong Lian Raymond Peck
Dr. Keng Poh Wee

Spain

Dr. José Maria Abenza Roja

Sudan

(a) forensic medicine

Prof. Sayed Daod
Prof. Mohamed Osman AbdelMalek
Prof. Beshir Ibrahim Mukhtar
Dr. Abdel Mutalab Yassin
Dr. Abdel Fatah Abdelgadir

Sudan (continued)

(b) human rights

Dr. Abdelrahman Ibrahim Elkhalifa
Dr. Ahmed Elmufti
Dr. Elfatih Elrashid
Amb. Isam Abugideri
Mr. Isaac Chinkok Kanti
Mr. Yassir Sayed Ahmed Elhassan

Sweden

Dr. Jan Lindberg

Thailand

Pol. Lt. Gen. Pravesna Koompai
Pol. Maj. Gen. Tasana Suwanjutha
Prof. Somchai Pholeamek
Pol. Col. Prapat Kontrong
Pol. Col. Tiamsak Ussawarak

Turkey

Dr. Emrullah Imamoglu
Dr. Özer Tugsavul
Dr. Ugur Tanacan
Dr. Cengiz Yeginaltay
Dr. Gürsel Cetin
Dr. Ömer Kurtas
Dr. Cüneyt Atasoy
Dr. Hasan Cankaya
Dr. Basar Colak
Dr. Fatih Yavuz
Dr. Gökhan Eris
Dr. Sinasi Umut

Ukraine

Mr. Vladimir Savelyevich Bezrebry
Mr. Yaroslav Vladimirovich Rybalko
Mr. Nikolai Stepanovich Zolotar
Mr. Serguei Juriyevich Petrayev
Mr. Serguei Olegovich Shimanovsky
Mr. Nikolai Pavlovich Moliboga
Mr. Grigori Arsentyevich Drachuk
Mr. Valeri Andreyevich Veliky

Yugoslavia

Dr. Zoran Stankovic

Zimbabwe

Ms. Amanda Dudizile Hkomo
Ms. Shingirayi Kanoyangwa-Shamu
Dr. S.A. Mapunda
Dr. Purohit Rameschchandra Himatlal

B. Experts and institutions recommended by non-governmental organizations

11. In the course of consultations with non-governmental organizations, the following institutions and individuals specializing in forensic sciences have been nominated to participate in forensic activities under United Nations auspices:

American Association for the Advancement of Science (Washington, D.C., United States of America)

Equipo Argentino de Antropología Forense (Buenos Aires, Argentina)

Mahidol University (Bangkok, Thailand)

Prof. Dr. Vithoon Eungprabhanth

Physicians for Human Rights (Boston, United States of America)

University Institute for Forensic Medicine (Odense, Denmark)

Dr. Lis Danielsen
Dr. Tonny Karlsmark
Dr. Henrik Klem Thomsen
Dr. Jorgen L. Thomsen

III. CONSIDERATIONS REGARDING FUTURE ACTIVITIES

12. In evaluating the progress made in improving the availability of expertise in forensic sciences and related fields for the investigation of human rights violations, the Secretary-General observes that the considerations given to the subject by relevant special procedures of the Commission on Human Rights, together with the most recent experience of the Commission of Experts established pursuant to Security Council resolution 780 (1992), support the idea of establishing a list of experts in forensic science and related fields to be available for investigations under United Nations auspices. They also underline the need to articulate a standard arrangement such as a cooperation service agreement regulating the status of experts, their methods of work, and other relevant matters including issues of finance and confidentiality. To this end, the agreement between the United Nations and Physicians for Human Rights (annexed to the Secretary-General's previous report on forensic sciences) may serve as a useful basis for future arrangements in the field.

13. In connection with the above, it is evident that several matters remain to be clarified in the event of the establishment of a permanent mechanism which is to be easily accessed, and utilized in a meaningful way, by

Governments or international human rights mechanisms. For example, in terms of jurisdiction over sites of exhumation, there may be significant concerns relating to responsibilities of relevant authorities, protection of the sites, security of the experts themselves, and the safekeeping and use of material findings. Prior to the initiation of any specific activities, it would also be necessary to secure adequate financial resources sufficiently in advance of expressed needs for the services. Another matter of concern arises in connection with control over the physical evidence collected through United Nations forensic operations as well as its use. As to the practical implications of collection and analysis of evidence for forensic purposes, there are important considerations of sensitivity relating to the prevailing political context of the investigations as well as cultural concerns. The standards and procedures regulating such matters must reflect the need for flexibility in specific cases, and yet must satisfy contemporary scientific and juridical requirements. These and other matters clearly need to be more thoroughly examined.

14. The above considerations point to the need to elaborate a comprehensive set of principles and guidelines to be observed in investigations conducted under United Nations auspices. Therefore, the list contained in paragraphs 10 and 11 should be considered preliminary until such time as a set of principles and guidelines is elaborated. The said list should also continue to be supplemented by such other names as may be recommended by Governments and expert non-governmental organizations.

15. With a view to initiating the work on the elaboration of the set of principles and guidelines, the Centre for Human Rights would have to arrange for a small group of experts, to be selected on the basis of comparative specializations and geographical representation, to hold consultations. Such consultations should take into account the Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions, the Model Autopsy Protocol, and the Model Protocol for Disinterment and Analysis of Skeletal Remains (included in the Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (ST/CSDHA/12 and Corr.1)) In addition, the advice and participation would be sought of relevant procedures and mechanisms of the Commission on Human Rights together with other United Nations bodies and specialized agencies including, inter alia, the Committee against Torture, the Commission on Crime Prevention and Criminal Justice and the World Health Organization.

16. In order to respond to the need for appropriate financing of consultations and eventual specific investigations conducted under United Nations auspices, as well as the voiced desire to obtain training of forensic experts for investigations conducted under the auspices of governmental bodies, the establishment of a voluntary fund may be considered.